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May 4, 1995

Mr. Marc Del Perio
State Water Resources
Control Board
901 "P" Street
Sacramento, CA 95814

Dear Mr. Del Perio:

This letter is to request that the State Water Resources Control Board (SWRCB) review the actions of the Delta Protection Commission for compliance with the Delta Protection Act and the Water Code. Of particular concern to WaterReuse is the policy which regulates recycled water.

BACKGROUND

In 1992, the state legislature passed the Delta Protection Act (Senate Bill 1866). The Act establishes the Delta Protection Commission, which consists of 19 representatives from local governments, reclamation districts, local water agencies, and several state agencies. The commission was tasked with the development of a comprehensive, long-term, resource management plan for land use within the primary zone of the Delta. The primary zone includes land in Contra Costa, Sacramento, San Joaquin, Solano, and Yolo counties. The Commission is required to prepare a Land Use and Resource Management Plan. Following completion of the plan, affected local governments are required to revise their general plans in accordance with the Land Use and Resource Management Plan.

On February 23, 1995, the Delta Protection Commission adopted its Land Use and Resource Management Plan. Utilities and Infrastructure Policy P-3 in the plan is as follows:

"New sewage treatment facilities (including storage ponds) and areas for disposal of sewage effluent and sewage sludge shall not be located within the Delta Primary Zone. (NOTE: The Rio Vista Project as described in the adopted Final Environmental Impact Report for such project and the Ironhouse Sanitary District use of Jersey Island for disposal of treated wastewater and biosolids are exempt from this policy.)"

The next step in the implementation process is for each of the five affected counties to incorporate provisions of the Land Use and Resources Management Plan into their General Plans.

RECYCLING WATER TO MEET CALIFORNIA'S NEEDS

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In December 1994, WaterReuse members helped prepare an issue paper that Tri-TAC submitted to the Delta Protection Commission to discourage adoption of the policy. On October 21, 1994, and January 18, 1995, WaterReuse also submitted letters highlighting concerns with the policy; however, efforts to date have been ineffective in influencing the Delta Protection Commission. The issue paper and letters highlighting the potential legal issues are attached for reference.

SWRCB ISSUES

The existing provisions of the Water Code provide assurance that water reuse will be safe and not degrade water quality. Further restrictions of water reuse appear to be in conflict with Section 29715 of the Delta Protection Act, which states that "To the extent of any conflict or inconsistency between this division and any provision of the Water Code, the provisions of the Water Code shall prevail." Furthermore, Section 13550 of the Water Code states that "The Legislature hereby finds and declares that the use of potable domestic water for non-potable uses, including but not limited to cemeteries, golf courses, parks, highway landscaped areas, and industrial and irrigation uses, is a waste or an unreasonable use of such water within the meaning of Section 2 of Article X of the California constitution if reclaimed water is available which meets all of the following conditions ... ". Essentially, the Water Code requires that recycled water be used when it is safe, available, and economical. Furthermore, the Water Code also has numerous sections that assure the protection of both surface water and groundwater quality. Therefore, a ban would impose more stringent regulations on water reclamation than currently exist in the Water Code.

Please review the issues raised in this letter, and inform us of the actions that the SWRCB will be pursuing. Please call if there are any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peter MacLaggan", followed by a small "x" mark.

Peter MacLaggan, President

JMK:PML:sb

Enclosures

cc: Margit Aramburu, Executive Director, Delta Protection Commission (w/o attachments)
Walt Pettit, Executive Director, State Water Resources Control Board (w/o attachments)
WaterReuse Board of Directors (w/o attachments)